

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of

Comment sought on Broadband Clearinghouse
NBP Public Notice # 10

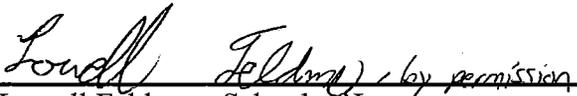
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) GN Docket Nos.:
) 09-47, 09-51, 09-137
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COMMENTS BY THE UNIVERSITY OF TEXAS SCHOOL of LAW ON THE
NOTICE FOR COMMENT SOUGHT ON A
BROADBAND CLEARINGHOUSE

University of Texas School of Law
with collaborating University of Texas units

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**COMMENTS BY THE UNIVERSITY OF TEXAS SCHOOL OF LAW ON THE
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The University of Texas at Austin is a premier university with a student body in excess of 50,000 student and international research programs that span multiple disciplines. The University has a strong educational and research background in the area of telecommunications in general and the development of more than 25 years providing an extensive 15 System institution broadband infrastructure in particular. In conjunction with its numerous cosponsors, the University sponsored four¹ BTOP and/or BIP applications, including a proposal for developing a Broadband Clearinghouse and Best Practices Center (“BPC”), which may have been the catalyst to the Commission’s request for comment, or may have simply been a coincidence. The School of Law was a prime power in promoting these applications and will play a significant part in the contemplated programs. This is particularly true of the proposed

¹ Anyone who wishes to obtain a full copy of each of the University of Texas’ applications need only request. Our sincere hope is that our applications can help serve as a model for how public subsidies for the information superhighway leads to public superhighways and not overbuilt private toll roads serving private interests. There are over 10 faculty members participating as part of our proposed projects including faculty from engineering, law, communications, and public policy discipline.

BPC. As discussed herein, there are tremendous opportunities for such a BPC to support those specific areas where a reasonable analysis shows continued and natural market failure.² Further, due to rapid advancements in technology, a university setting continues to be an ideal place to refresh the defining what is in “the public interest.” The public interest is often defined in the development of practices that will assist the market in deploying broadband to both unserved and underserved areas.

INTRODUCTION AND SUMMARY

The University of Texas School of Law files these comments in response to the request for comment on a Broadband Clearinghouse. The Commission requests comment on various specific issues as to the appropriate scope, goals, and function of such an organization. The Law School strongly supports the developing of a Broadband Clearinghouse as a Best Practices Center (“BPC”). On August 20, 2009, the University of Texas with its multiple cosponsors filed its plan to develop the Broadband Clearinghouse and BPC with the NTIA. In that application, the University discussed: (1) its concept for developing a Broadband Clearinghouse and BPC, (2) the credentials of the University of Texas to build such an organization, and (3) the steps the University has taken toward making such an organization a reality.

As stated in the executive summary of the referenced application:

“We propose to create and maintain a Broadband Best Practices and Dispute Avoidance Center (“the Center”), as part of the University of Texas Broadband Center, which will serve the dual purposes of 1) serving as an unbiased resource center for information for the broadband services industry and for community leaders who are part of the effort to extend high-speed broadband to all Americans; and 2) creating a model forum for dialogue, collaboration, and conflict management on broadband issues. The University of Texas at Austin is well qualified for this type of work....”

² Often, these perceived market failures are discussed in terms of both unserved and underserved areas for various supported services.

I. STEPS TAKEN TOWARD THE DEVELOPMENT OF A BROADBAND CLEARINGHOUSE AND BEST PRACTICES CENTER

As stated above, the University of Texas at Austin has been and is on the cutting edge when it comes to dissemination of information relating to broadband deployment. Policy researchers at the University have remained acutely aware of the continuing and growing digital divide that has separated unserved and underserved areas from the rest of the nation. Observation and analysis have shown that one key obstacle to broadband deployment is the lack of information sharing within the broadband industry, as well as lack of information within communities regarding how best to utilize broadband capabilities for e-government, e-learning and economic development. The creation of the BPC will go a long way toward sharing “lessons learned” and maximizing the benefits to broadband investments in the future. The following are but some of the vision concepts various faculty at the University of Texas have included as areas where research, hands on delivery of service and transparent and non-bias publication of results can benefit future service providers and policy makers:

- Researching and publishing results in pricing policies to correlate to adoption of broadband use in various socioeconomic groups;
- Researching and publishing best practices within communities for organizing and utilizing broadband capabilities for community goals;
- Researching and publishing cost of delivery models related to high-density/low income areas. The concept is to investigate adoption policies in areas where targeting capital investment may dramatically lower on-going operation costs for a better sustainable broadband model. Technologies proposed to investigate include:
 - Wireless unlicensed delivery;

- Wired delivery via new facility investment (Ethernet)
- Re-use delivery of existing infrastructure (DSL or Cable Plant)
- Wireless licensed delivery.
- Researching, developing and publishing best network management practices related to operating an “Open Network.” This will include various:
 - Network management software tools
 - A review of various network hardware;
 - A review of interoperability issues related to hardware, network software and application software;
- Also related to operating an “Open Network”, the BPC will launch a dispute avoidance and dispute resolution center:
 - To avoid disputes, the BPC will support the creation of model Terms of Service Agreements between providers and their customers;
 - Also to avoid disputes, the BPC will support the creation of Model “Peering” and “Interconnection” agreements as between network providers as well as content providers.
 - As technology continues to develop in areas such as “white space” and “cognitive radio”, the BPC’s scientific and engineering expertise can help the FCC model in real time solutions to unknown problems and can serve as a clearinghouse for suggested spectrum usage and management practices in these areas.
 - When disputes occur, the BPC will offer mediation and arbitration services. Importantly, on-going experience from private disputes and

challenges in managing an “open network: will feed back to the academic and business communities for longer term resolution.

As can be seen from above, the BTOP/BIP funding opportunity and process itself was an excellent tool used to help focus the conceptual need for a BPC to the concrete proposal and development plan that exists today. Support for the BPC is not only strong within multiple disciplines within the broadband community; the University of Texas BPC concept has received strong support from the community and within the broadband industry.³ Commitments have been obtained to utilize significant office space for the BPC at the local Sematech campus. Moreover, commitments of time and cooperation have been obtained to bring the BPC online once it is funded.

II. GOALS AND PURPOSE OF A BROADBAND CLEARINGHOUSE AND BEST PRACTICES CENTER

The ultimate goal of the BPC is nothing less than assisting innovation to the marketplace so that the benefits of broadband investments will have the maximum applicability to existing and future broadband consumers. To work toward this goal, the BPC would serve a number of functions. First, the BPC would act as a clearinghouse where experience within the industry can be shared. Users of this information can range from companies deploying broadband infrastructure to community leaders investigating options to maximize broadband deployment and use in their respective communities. The BPC would also provide regional and local training sessions, workshops, and the means for industry participants to establish a “learning community”

³ Our application has been recommended via the State of Texas review process.

of peers who help each other. As such, the BPC can act as a key “integrator” for the BPC’s user groups.

The BPC, as envisioned in the University’s Application, can evolve into a forum for dialogue, collaboration and conflict management. Establishing best practices, creating models, or effecting mediating assistance are examples of roles the BPC can play to support collaborative efficiencies for broadband deployment. The BPC will offer education and training concerning the collaborative and conflict management tools available and will provide assistance where applicable.

III. WHY THE UNIVERSITY OF TEXAS IS WELL SUITED TO DEVELOP THE BROADBAND CLEARINGHOUSE CONSISTENT WITH ITS APPLICATION BEFORE THE NATIONAL TELECOMMUNICATIONS INFRASTRUCTURE AGENCY ("NTIA")

The University of Texas at Austin, as well as other major Universities, is well suited to develop the BPC for a number of reasons. First and foremost, academic institutions are “Open by Design” in that the primary purpose is education. Thus, a University setting compares favorably to various industry sponsored groups as well as even government agencies that have differing and sometimes conflicting legislative or policy mandates.

Unique to UT Austin is the level of collaboration in the area of telecommunications across the engineering, law, and business schools. For example, the School of Law is actively engaged in framing better dispute resolution processes which takes into account the technical complexities of evolving technology, the electrical engineering department houses a world-renowned wireless research center, WNCG (wncg.org), that works actively with industry to advance and transition innovative wireless technologies,⁴ and the LBJ School sponsors non-bias

⁴. WNCG is supported by many large federal grants from the Department of Defense and the National Science Foundation, and by ten industrial affiliates including key companies such as AT&T, Qualcomm, Texas Instruments,

research on how and to what degree broadband adoption and use are transformative in peoples lives. Importantly, the WNCG and its faculty and students have been working with faculty and students from the Law School and the LBJ School of Public Affairs enabling synergistic education and research. Because of such collaboration, the University of Texas is well-positioned to understand industries' needs, but can also be trusted to take a broad and long-range view of policy rather than advocating narrow parochial interests.

The University is already a leader within its region with credibility as an impartial organization providing basic research and broadband information to the community. The University is conceptually ahead of the curve in developing the BPC. The concept behind the BPC was not developed overnight. Instead, the concept has been ripening over time based on history, experience, and research. But for funding, the BPC is "shovel ready". The base concept behind the BPC is developed, staffing commitments have been obtained, and the University has committed substantial resources of its own – including the use of the Sematech campus – to supplement funds sought from the BTOP. Finally, the University has developed the BPC concept with input and support from the community that it will serve.

Based on experience, expertise, and planning, the University of Texas at Austin is at least one of the right organizations at the right time to construct and develop the BPC model. Moreover, the University has engaged in the planning and preparation necessary to support efforts by the industry and communities to bridge the digital divide that still afflicts numerous unserved and underserved areas.

Dell, DoD, Samsung, National Instruments, and Panasonic who actively fund, advise and collaborate with the university faculty and students.

CONCLUSION

The University of Texas at Austin School of Law strongly supports the discussion surrounding the Broadband Clearinghouse and Best Practices Center; the concept is consistent with the University's proposal and application currently being reviewed by the NTIA. The BPC will allow communities and industry participants to benefit from the successes and errors made by others so that the wheel is not recreated again and again. The BPC will provide a clearinghouse to share research. Finally, the BPC will stand ready to be an impartial catalyst bringing participants together to support the goal of making broadband available within communities that are unserved or underserved today.

The University of Texas at Austin School of Law appreciates the opportunity to discuss these central and vital issues with the Commission.

Respectfully Submitted,

**UNIVERSITY OF TEXAS SCHOOL
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WITH COLLABORATING
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